

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

REGULAR

(See instructions on reverse)


For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2012-0925-01	REGULATORY ACTION NUMBER 2013-0404-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2013 MAY 16 PM 4:02


 JEMMA BOWEN
 SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY

AGENCY FILE NUMBER (if any)

11-0183

California Department of Corrections & Rehabilitation

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2012, 40-2	PUBLICATION DATE 10/5/2012

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Visiting Searches		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
TITLE(S) 15		3173.2, 3174	
		REPEAL	
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 2/7/13 - 2/26/13			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Gail Long		TELEPHONE NUMBER (916) 445-2276	FAX NUMBER (Optional) (916) 324-6075
		E-MAIL ADDRESS (Optional) gail.long@cdcr.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

MARTIN HOSHINO, Undersecretary (A), Operations

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ENDORSED APPROVED

MAY 16 2013

Office of Administrative Law

TEXT OF ADOPTED REGULATIONS

In the following, underline indicates additional text and ~~striketrough~~ indicates deleted text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 7. Visiting

3173.2. Searches and Inspections.

Subsection 3173.2(a) is unchanged and shown for reference.

(a) Any person coming onto the property of an institution/facility shall be subject to inspection as necessary to ensure institution/facility security including prevention of the introduction of contraband. Inspections may include a search of the visitor's person, personal property and vehicle(s) when there is reasonable suspicion to believe the visitor is attempting to introduce or remove contraband or unauthorized items or substances into, or out of, the institution/facility.

Subsections 3173.2(b) through 3173.2(c) are unchanged.

Existing subsection 3173.2(d) is renumbered 3173.2(e).

New subsection 3173.2(d) is adopted to read:

(d) Visitor Screening.

(1) Metal Detectors

At institutions equipped with a functional walk-through metal detector, all visitors shall successfully pass through the detector unless a documented medical condition or disability exists that would preclude the visitor from passing through the detector.

(A) At institutions or facilities without a functioning walk-through metal detector, a hand-held wand type of metal detector may be used.

(B) Areas of the body that have piercings or undergarments with an underwire often alarm metal detectors and may delay or even prevent visiting.

(C) Processing may require the removal of shoes, jackets, sweaters, suspenders, belts, piercings, jewelry, or other accessories for closer inspection or separate processing.

(2) Subject to subsection 3173.2(a), additional screening will occur when an individual sets off the alarm of the metal detector, an individual is selected for additional screening, or an individual has provided documentation to substantiate a condition that precludes successful screening by metal detector. This additional screening may include either:

(A) A hand-held wand inspection in conjunction with a clothed body search of the visitor's body, including the torso;

(B) A clothed body search alone; or

(C) An unclothed body search.

(3) When additional screening is required, visitors should let staff know of any personal needs or concerns they may have due to religious or cultural considerations, disability, or other medical concern.

(4) Additional searches will be conducted by staff of the same gender as the visitor.

(5) Hand-held wand inspection: A hand-held wand inspection helps staff to identify what may have set off the alarm on the walk-through metal detector or to confirm an alarm present during the initial screening. During the wand inspection the visitor shall be asked to stand with feet and legs apart and arms out to the side while the staff member passes the wand in close proximity to all areas of the visitor's body.

(6) Clothed body search: To ensure security, a clothed body search may be used in conjunction with the hand-held wand inspection. A clothed body search may also be performed as a stand-alone procedure, when appropriate, or to resolve alarms set off during an inspection by the metal detector. A clothed body search may include touching sensitive areas of the body.

(7) Unclothed body search: An unclothed body search is a security procedure that involves visual inspection of a person's body with all of their clothing removed and a thorough inspection of the person's clothing for the purpose of detecting contraband. This procedure may be conducted with the visitor's consent when there is a reasonable suspicion that the visitor is carrying contraband and when no less intrusive means are available to conduct the search.

Existing subsections 3173.2 (d) and (d)(1) are renumbered 3173.2 (e) and (e)(1) and are unchanged.

~~(d)~~ (e) Visitors with medically implanted or prosthetic devices:

(1) Visitors with temporary or permanent medically implanted or prosthetic device(s) who cannot clear the metal detection device and/or visitors who require the use of a wheelchair or other assistive devices for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist. The letter must confirm the mobility impairment, and/or the nature of the medically implanted or prosthetic device and its specific location in/on the body, and the need for any assistive device.

Subsections 3173.2 (d)(2) and (d)(3) are renumbered 3173.2 (e)(2) and (e)(3) and are amended to read:

(2) Visitors with a temporary medically implanted or prosthetic device(s) shall be required to renew the verification letter, as described in subsection 3173.2 ~~(d)~~(e)(1), every two years.

(3) Visitors with a permanent medically implanted or prosthetic device(s) shall be required to renew ~~update~~ the verification letter, as described in subsection 3173.2 ~~(d)~~(e)(1), to coincide with any changes to the device(s).

Existing subsection 3173.2(e) is renumbered 3173.2 (f) and is unchanged.

~~(e)~~ (f) Visitors who require the use of a wheelchair shall temporarily transfer to a designated institution/facility wheelchair, when available, while visiting staff conduct an inspection of the visitor's wheelchair. Visitors who present a letter signed by their physician that confirms the need for using a battery powered or custom designed wheelchair shall be exempt from the requirement of transferring from their personal wheelchair. In such cases, the visitor shall permit an inspection of the personal wheelchair and allow a hand held metal detection device to be used.

Existing subsection 3173.2(f) is renumbered 3173.2 (g) and is unchanged.

~~(f)~~ (g) Except as provided in subsection (b), if the search of any visitor's person, property or vehicle exceeds that which is normally required for all visitors, the visitor shall be informed in writing of the reason for the search and the name of the official ordering the search. Consent shall be obtained from the visitor prior to the search.

Existing subsection 3173.2(g) is renumbered 3173.2 (h) is unchanged.

~~(g)~~ (h) A visitor who refuses to be searched shall be denied visiting for that day.

Existing subsections 3173.2(h), (h)(1), and (h)(2), and (h)(3) are renumbered (i), (i)(1), (i)(2) respectively and are unchanged.

~~(h)~~ (i) Any person who brings an unauthorized cell phone or wireless communication device within the secure perimeter of the California Department of Corrections and Rehabilitation facility is deemed to have given consent to the department to prevent wireless communication using available technology.

(1) The inmate and the visitor who refused to be searched shall be notified in writing as described in section 3176(a)(3).

(2) Future visits may be conditioned upon the visitor's willingness to submit to a search prior to each visit for as long as institution/facility officials have reasonable suspicion to believe that the visitor will attempt to introduce contraband or unauthorized substances into the institution/facility.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 4576 and 5054, Penal Code.

3174. Standards of Dress for Inmate Visitors.

Subsections 3174(a) through 3174(b) are unchanged.

Subsections 3174(b)(1) through 3174(b)(2) are amended to read:

(b) Prohibited attire consists of:

(1) Clothing that resembles state-issued inmate clothing worn to visiting (blue denim or blue chambray shirts and blue denim pants);

(2) Clothing that resembles law enforcement or military-type clothing, including rain gear; when not legitimately worn by an individual on active duty or in an official capacity.

Subsections 3174(b)(3) through 3174(b)(6) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.